

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

COLEMAN DUPONT HOMSEY and)
ELLEN HOMSEY,)
)
Plaintiffs,) C.A. No. 07-338-UNA
)
)
v.)
)
VIGILANT INSURANCE COMPANY,)
)
Defendant.)

**DEFENDANT'S PARTIAL MOTION TO DISMISS
PLAINTIFFS' COMPLAINT BASED UPON INSUFFICIENCY OF
COUNT III (BAD FAITH) AND COUNT IV (CONSUMER FRAUD)**

Defendant Vigilant Insurance Company hereby respectfully moves this Court to dismiss Count III and Count IV of the Complaint for Declaratory and Other Relief filed by Coleman duPont Homsey and Ellen Homsey (“Plaintiffs”) for the reasons more fully set forth in its Memorandum of Law in Support of its Partial Motion to Dismiss Plaintiffs’ Complaint Based Upon Insufficiency of Count III and Count IV filed contemporaneously herewith and expressly incorporated herein by reference.

Dated: June 5, 2007

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FOR THE DISTRICT OF DELAWARE**

COLEMAN DUPONT HOMSEY and)
ELLEN HOMSEY,)
)
Plaintiffs,) C.A. No. 07-338-UNA
)
v.)
)
VIGILANT INSURANCE COMPANY,)
)
Defendant.)

ORDER

Upon consideration of Vigilant Insurance Company's Motion to Dismiss Plaintiffs' Complaint Based Upon Insufficiency of Count III (Bad Faith) and Count IV (Consumer Fraud) (the "Motion"), **IT IS HEREBY ORDERED** that the Motion is **GRANTED** and that: (i) Count III (Bad Faith) and Count IV (Consumer Fraud) are dismissed with prejudice; and (ii) Plaintiffs' requests for punitive damages are stricken in their entirety.

Dated: _____, 2007

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I, Denise Seastone Kraft, hereby certify that on June 5, 2007, the attached **Defendant's Partial Motion to Dismiss Plaintiffs' Complaint Based Upon Insufficiency of Count III (Bad Faith) and Count IV (Consumer Fraud)** was served on the following persons in the manner indicated and was electronically filed with the Clerk of the Court using CM/ECF:

Via Facsimile & Federal Express

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